

CEHEC-EP  Office Memorandum 600-1-771	Department of the Army U.S. Army Corps of Engineers Washington, DC 20314-1000	OM 600-1-771  1 December 1996
	Personnel - General  ADMINISTRATIVE GRIEVANCE SYSTEM	
	<b>Distribution Restriction Statement</b> Approved for public release; distribution is unlimited.	

CEHEC-CP

DEPARTMENT OF THE ARMY  
U.S. Army Corps of Engineers  
Washington, D.C. 20314-1000

OM 600-1-77 1

Memorandum  
No. 600-1-771

1 December 1996

Personnel - General  
Administrative Grievance System

1. PURPOSE. To provide a fair, equitable, and timely forum for agency review and resolution of disputes on certain employment-related matters under the control of agency management.
2. APPLICABILITY. The Administrative Grievance System (AGS) applies to current employees of the Headquarters, U.S. Army Corps of Engineers (HQUSACE) and National Capital Area Field Operating Activities (FOA) who are not in established bargaining units. Former HQUSACE and FOA employees may also seek redress under the AGS for matters arising during their employment provided they can be given a remedy consistent with law. Bargaining unit employees may implement the AGS when a matter covered by it cannot be grieved under their negotiated grievance procedure (NGP) either because a NGP is not in effect at the time or because it does not cover the matter being grieved.
3. REFERENCES.
  - a. Title 5, Code of Federal Regulations, Part 771.
  - b. Department of Defense Directive 1400.25, Subchapter 771.
4. POLICY. An employee may file a grievance on any matter of concern or dissatisfaction related to his or her employment that is under management control, except for the matters listed in Appendix A. Employees are entitled to present grievances and to communicate with supervisors or managers and officials in their servicing Civilian Personnel Advisory Center (CPAC) without restraint, interference, coercion, discrimination, or reprisal. Grievances will be considered expeditiously, fairly, and impartially. Employees are entitled to be represented by someone of their choosing in presenting their grievances, so long as the representative does not present a conflict of interest or position, conflict with mission priorities, or result in unreasonable costs. A grieving employee and his or her representative shall have full access to relevant information and shall be given copies of such information unless to do so would be unduly burdensome or contrary to law or regulation. Employees shall be permitted a reasonable amount of official duty time, if otherwise in a duty status, to present a grievance and to communicate with management and personnel officials.

1 Dec 96

5. RESPONSIBILITIES.

a. Directors and Chiefs of Separate Offices serve as deciding officials for grievances in their organizations unless they are involved or have a direct interest in the matter being grieved.

b. Civilian Personnel Advisory Center (CPAC)

(1) Provide technical advice and guidance to management and employees.

(2) Ensure compliance with the AGS.

(3) Coordinate with the EEO Officer to ensure grievance issues are addressed through only one forum.

(4) Serve as facilitators and as members of grievance panels.

(5) Establish and maintain a separate file for each written grievance filed under this administrative grievance system and retain that file in accordance with applicable laws, regulations, and records retention schedules.

c. The Commander, Deputy Commander or Chief of Staff serve as deciding officials in grievances involving directors or separate office chiefs.

6. SPECIAL PROVISIONS FOR CIPMS EMPLOYEES. Non-preference eligible employees covered by the Civilian Intelligence Personnel Management System (CIPMS) may grieve their removal, suspension, reduction in grade or pay, or furlough for 30 days or less, if they have completed one year of continuous service in the same or similar position in DoD under other than a temporary appointment of two years or less. The termination of a CIPMS employee under section 1590(e)(1) of Title 10, United States Code, is not covered. In the case of a grievance over a removal of a CIPMS employee covered by this procedure, an impartial hearing is normally conducted.

7. RELATIONSHIP TO OTHER APPEAL OR COMPLAINT PROCEDURES.

a. Matters that can be appealed to the Merit Systems Protection Board (MSPB) or are subject to final administrative review by the Office of Personnel Management (OPM), the Equal Employment Opportunity Commission (EEOC) or the Federal Labor Relations Authority (FLRA) may not be grieved.

b. Complaints, allegations, and reports of official misconduct, mismanagement, waste, fraud, and inefficiency that do not involve personal relief may be submitted to one of the following:

- (1) The Army Inspector General.
- (2) The DOD Hotline.
- (3) The Office of Special Counsel (for investigating prohibited personnel practices).

c. Whenever an employee files a formal grievance that duplicates matters under consideration by another authority or contains issues that will be considered by another authority while ruling on a matter before it, the grievance will be canceled. After a decision is made by the other authority, any remaining grievable issues may be presented as a formal grievance within 15 calendar days after the grievant receives the decision.

8. ALLEGATIONS OF DISCRIMINATION. If an employee alleges discrimination because of race, color, religion, sex, age, national origin, physical or mental disability, and/or reprisal in connection with a grievance, the official receiving the grievance will promptly suspend any consideration and refer the employee to the HECSA EEO office for action. The employee and his or her representative (if any) will be notified in writing of the referral. The grievance may be reopened under the AGS only if, after meeting with an EEO counselor, the employee withdraws their allegation of discrimination in writing and requests further processing under the AGS within seven calendar days.

9. OFFICE OF COMPLAINTS INVESTIGATION (OCI). The Defense Civilian Personnel Service's Office of Complaint Investigations (OCI) will provide expert grievance investigations, fact-finding and mediation on a reimbursable fee-for-service basis. Upon request, the CPAC will arrange for a OCI representative.

10. INFORMAL PROBLEM SOLVING PROCEDURE. This procedure can be used at the employee's option and is encouraged whenever possible. Emphasis is on settling employee-management conflict at the lowest level possible by seeking a solution satisfactory to all parties.

a. An employee may informally present any work-related problem, to include dissatisfaction with performance appraisals, to his or her immediate supervisor before filing a formal grievance. If the problem involves a matter or action directly involving that supervisor, the employee may present it to the next level supervisor. The problem must be presented within 15 calendar days

following the date of the act or event creating the problem, or the date the employee became aware of (or reasonably should have become aware of) the act or event. A problem concerning a continuing practice or condition may be presented at any time.

b. The employee's supervisor must consider the matter and attempt to resolve it within 15 calendar days, even if the matter may not be covered by the AGS. Where appropriate, the use of a neutral is encouraged. At the supervisor's request, the CPAC will arrange for mediation, conciliation or facilitation assistance. The supervisor will prepare a memorandum for record (MFR) which summarizes the grievance, the consideration given it, the conclusion reached, and the course of action to be taken. If the problem can not be resolved the MFR will inform the employee of his or her right to file a formal grievance within 15 calendar days. If the supervisor believes the matter is excluded from coverage under the AGS, the MFR will also inform the employee of the appropriate forum for seeking resolution of the problem. Problems resolved at this stage are informal and no written record is retained by the CPAC.

11. ADMINISTRATIVE GRIEVANCE PROCEDURE. An employee may file a formal grievance with the appropriate deciding official when a problem is not resolved during the informal process, or when the employee chooses to bypass that process and invoke the administrative grievance procedure. A formal grievance must be in writing, signed and dated, and must clearly state the issue(s) in sufficient detail to identify the matter being grieved and the personal relief sought. The grievant is responsible for providing copies of any documents in their possession related to the grievance and the name, address, and telephone number of his/her representative, if any. If the employee used the informal process, the employee must file the formal grievance no later than 15 calendar days from the conclusion of that process. If the employee raises the matter initially as a formal grievance, the grievance must be presented within 15 calendar days following the date of the act or event giving rise to the grievance, or from the date the employee became aware of (or reasonably should have become aware of) the act or event. A grievance concerning a continuing practice or condition may be filed at any time.

a. The deciding official determines whether to join similar or identical grievances, whether to require an investigation and how it will be conducted, whether to allow the grievant's chosen representative and how much official time shall be granted to the grievant and his or her representative to present the grievance.

b. Wherever possible, the deciding official should rule on the merits of the grievance. However, the deciding official may cancel or temporarily suspend a grievance, or portion of a grievance, if: the employee or matter is excluded from coverage; the grievant fails to provide sufficient detail to clearly identify the matter being grieved or to specify the personal relief being sought; the grievant fails to comply with applicable time limits or procedural requirements; the

grievant requests disciplinary action taken against another employee for personal relief the employee raises the matter under another formal dispute resolution process; or the grievant requests such action. The grievant may request a review of a deciding official's decision to cancel a grievance by the next higher management level within HQUSACE.

c. The deciding official shall fully and fairly consider the grievance and make a decision based on a review of the record and any additional information deemed necessary to make an informed judgment in the matter. If additional information is deemed necessary, the deciding official may conduct his/her own investigation, designate an impartial investigator or panel to examine the grievance and make recommendations concerning its disposition, or employ the services of the OCI.

(1) A grievance panel will be composed of three members: one of the grievant's choice, one of management's choice, and one CPAC specialist. No panel member may have been involved in the grievance or occupy a position subordinate to the deciding official, unless the deciding official is the Commander. The CPAC specialist will make the necessary coordination for the panel to meet within seven calendar days.

(2) An investigator must not have been involved in the matter being grieved or occupy a position subordinate to any official involved in the matter, unless the official involved is the Commander.

d. The decision and supporting rationale shall be issued as soon as possible but no later than 60 calendar days from the filing of the grievance. The deciding official may extend time frames when warranted by special circumstances (e.g., when those involved are geographically dispersed or where an outside fact-finder is used in the process). If the deciding official fails to render a decision within 90 calendar days, absent a mutual agreement to extend the time limit to accommodate resolution efforts, the employee may request review of the grievance by the next higher management level within HQUSACE. The deciding official's decision is final and not subject to further review.

FOR THE COMMANDER:

Appendix A  
APP A - EXCLUSIONS



OTIS WILLIAMS  
Colonel, Corps of Engineers  
Chief of Staff

## Appendix A

### EXCLUSIONS

The following matters may not be grieved under the provisions of the Administrative Grievance System:

- a. The content of established agency regulations and policy.
- b. Any matter covered by a negotiated grievance procedure or subject to formal review and adjudication by the Merit Systems Protection Board (MSPB), the Office of Personnel Management (OPM), the Federal Labor Relations Authority (FLRA), the Equal Employment Opportunity Commission (EEOC); any matter that the employee files under another review procedure, a reconsideration procedure, or a dispute resolution process within the agency or DoD.
- c. Nonselection for promotion from a group of properly ranked and certified candidates or failure to receive a non-competitive promotion.
- d. A preliminary notice of an action which, if effected, would be grievable or appealable in another forum.
- e. The substance of performance objectives/responsibilities and standards.
- f. Determinations concerning awards, additional step increases, recruiting or relocation bonuses, retention allowances, additional pay allowances, supervisory differentials, critical position pay, or dual compensation waivers.
- g. Any action taken under a voluntary, formal agreement entered into by an employee involving geographic relocation or return from an overseas assignment.
- h. Termination of a probationer; return of an employee serving supervisory or managerial probation to a nonsupervisory or nonmanagerial position; separation or termination of an employee during a trial period.
- i. The performance evaluation of a Senior Executive Service (SES) member; the granting of or failure to grant an SES rank award or performance award (including the amount of the award.)

1 Dec 96

j. Reassignment of an SES member following receipt of an unsatisfactory rating; the return of an SES career appointee to another pay system during the 1-year period of probation for less than fully successful executive performance or for failure to be recertified; the conditional recertification of an SES career appointee; termination of an SES career appointee during probation for unacceptable performance.

k. Termination or expiration of a time-limited excepted appointment, a term or temporary appointment or promotion, or an SES limited emergency or limited term appointment on the date specified as a condition of employment at the time the appointment or promotion was made.

l. The termination of a term or temporary promotion at any time other than the time specified as a condition of employment at the time the appointment or promotion was made, provided the employee was informed in advance of the temporary nature of the promotion and the employee was returned to his or her former position or to a different position of equivalent pay and grade.

m. SES or Senior Level pay rate changes.

n. A separation or termination action, except as provided for CIPMS employees.